

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA 220

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/EP2004/051985

International filing date (day/month/year)
01.09.2004

Priority date (day/month/year)
21.11.2003

International Patent Classification (IPC) or both national classification and IPC
H04B7/005, H04L1/00

Applicant
MOTOROLA INC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

10/568605

International application No.
PCT/EP2004/051985

IAP20 Rec'd PCT/TO 14 FEB 2006

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/051985

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3,15
	No: Claims	1,2,4-14,16-25
Inventive step (IS)	Yes: Claims	3,15
	No: Claims	1,2,4-14,16-25
Industrial applicability (IA)	Yes: Claims	1-25
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/051985

IAP20 REGISTRATION 14 FEB 2006

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:
D1: EP-A-1 361 677 (EVOLIUM S A S) 12 November 2003 (2003-11-12)
D2: US-B-6 374 118 (HOLMA HARRI ET AL) 16 April 2002 (2002-04-16).
2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
 - 2.1. The document D1 discloses (the references in parentheses applying to this document):
an outer loop power control method (par. 53 line 32) performed in a radio communications system (par. 34), the method comprising:
determining that a plurality of different services are being communicated (par. 53);
performing a comparison with respect to the different services (par. 53, 73, 78); and
providing an inner loop power control performance target in a manner dependent upon the comparison (53).
3. The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 12, 13, 24 and 25 which therefore are also considered not new.
4. Same conclusions would have been reached using document D2.
5. Dependent claims 2, 4-11, 14, 16-23 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see documents D1, D2 and the corresponding passages cited in the search report.
6. The combination of the features of dependent claims 3 and 15 is neither known from, nor rendered obvious by, the available prior art. The reasons are as follows:
 - 6.1. Document D1 is regarded as being the closest prior art to the subject-matter of claims 3 and 15. D1 shows a selection of one among the various services as result of the comparison (see D1 par. 53).

- 6.2. The subject-matter of claims 3 and 15 differs from this known D1 in that the service selected is the least tolerant to delays.
- 6.3. The subject-matter of claims 3 and 15 is new (Article 33(2) PCT) because D1 does not disclose the same selection criterium as the invention.
- 6.4. The problem to be solved by the present invention may be regarded as improving the delay tolerance of a multi-service radio communication system.
- 6.5. The solution to this problem proposed in claims 3 and 15 of the present application is considered as involving an inventive step (Article 33(3) PCT) because it is not shown nor suggested by D1; furthermore nowhere in D1 there is a mention/suggestion to the problem solved by the two claims.

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